

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES OF AMERICA
FOR A SEARCH AND SEIZURE
WARRANT FOR AN ACCOUNT HOSTED
BY FACEBOOK, INC.

Case No. 1:20-mj-113

Magistrate Judge Lee

Filed Under Seal

AFFIDAVIT

I, Adam Baldwin, being duly sworn, state as follows:

Introduction and Background

1. I make this affidavit in support of an application for a warrant under Federal Rule of Criminal Procedure 41 and 18 U.S.C. § 2703(c)(1)(A) to search and seize location information associated with a certain Facebook account that is stored at premises controlled by Facebook Inc., a provider of electronic communications service and remote computing service headquartered in 1601 Willow Rd, Menlo Park, California 94025. The Target Facebook Account is described herein and in Attachment A, and the location information to be seized is described herein and in Attachment B.

2. Because this warrant seeks the prospective collection of information, that may fall within the statutory definitions of information collected by a “pen register” and/or “trap and trace device,” see 18 U.S.C. § 3127(3) & (4), the requested warrant is designed to also comply with the Pen Register Act. See 18 U.S.C. §§ 3121-3127. The requested warrant therefore includes all the information required to be included in an order pursuant to that statute. See 18 U.S.C. § 3123(b)(1).

3. I, Adam Baldwin, am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and have been so employed since August 2014. In addition to my employment with ATF, I have over three years of law enforcement experience with the Pentagon Force Protection Agency (PFPA). During my tenure with PFPA, I served two years as a police officer in multiple capacities, to include patrol, surveillance detection, and as a law enforcement liaison to the Director of PFPA. I additionally served approximately one year as a special agent with PFPA, conducting complex criminal and protective intelligence investigations, as well as conducting domestic and international protective missions. I am a graduate of the Federal Law Enforcement Training Center (FLETC) Uniformed Police Training Program (UPTP), Criminal Investigator Training Program (CITP), and the ATF Special Agent Basic Training (SABT) Program. I have received specialized training with respect to narcotics and firearms violations and have been involved in numerous investigations involving violent crimes and the seizure of firearms and controlled substances. I also have a Bachelor of Science in Criminal Justice from East Tennessee State University, and a Master of Science in Criminal Justice from The University of Tennessee at Chattanooga.

4. Your Affiant has had specialized training and has been involved in numerous investigations involving violent crimes and criminal activities with respect to federal violations, specifically, participating in investigations to locate and arrest wanted fugitives. It has been my experience that fugitives commonly use social media platforms such as Facebook, Instagram, Snapchat, Twitter, etc. to communicate with family and known associates.

5. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

6. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe Brandon MCDANIEL, is the user of Facebook Account: <https://www.facebook.com/ghee.oa> under the vanity name "BG Mac Da Demon." There is also probable cause to search Facebook User Identification <https://www.facebook.com/ghee.oa>; vanity name "BG Mac DA Demon" for physical location data collected by Facebook for the user of the account, including any data collected by Facebook's location services via the user's mobile phone or other device in order to locate evidence for violations of 18 U.S.C. § 922(g)(1) possession of a firearm by a convicted felon, and 18 U.S.C. § 924(c), possession, brandishing, and use of a firearm during a crime of violence; also to locate and arrest MCDANIEL on outstanding warrants for criminal homicide.

Background on Facebook

7. Based on my training and experience, and on information provided by Facebook, I have learned the following:

a. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

b. Facebook asks users to provide basic contact information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, contact email addresses, physical address, telephone numbers, screen names,

websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

c. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, to all Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

d. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. A Facebook user can also connect directly with individual Facebook users by sending each user a “Friend Request.” If the recipient of a “Friend Request” accepts the request, then the two users will become “Friends” for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user’s account includes a list of that user’s “Friends” and a “Mini-Feed,” which highlights information about the user’s “Friends,” such as profile changes, upcoming events, and birthdays.

e. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post “status” updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming “events,” such as social occasions, by listing the event’s time, location, host, and guest list. A particular user’s profile page also includes a “Wall,” which is a space where the user and his or her “Friends”

can post messages, attachments, and links that will typically be visible to anyone who can view the user's profile.

f. Facebook allows users to upload photos and videos. It also provides users the ability to "tag" (*i.e.*, label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook's purposes, the photos and videos associated with a user's account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them. Photos taken by a digital camera or smartphone typically include an Exchangeable Image File ("EXIF") data, which often includes the date, time, type of device, and geolocation for the photo. Facebook removes EXIF data from photos that are uploaded by users, but retains a copy of that information.

g. I am aware that Facebook retains certain precise location information for its users. On its public website, Facebook states that "connection information like your IP address or Wi-Fi connection and specific location information like your device's GPS signal help us understand where you are."¹ Facebook advises its users that it can control certain location information transmissions via settings on a Facebook account or mobile device, but it also advises its users "we may still understand your location using things like check-ins, events, and information about your internet connection."

h. Facebook users can exchange private messages on Facebook with other users. These messages, which are similar to e-mail messages, are sent to the recipient's "Inbox"

¹ See Facebook.com, "privacy basics," <https://www.facebook.com/about/basics/manage-your-privacy/location> (last accessed April 14, 2020).

on Facebook, which also stores copies of messages sent by the recipient, as well as other information. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a Chat feature that allows users to send and receive instant messages through Facebook. These chat communications are stored in the chat history for the account. Facebook also has a Video Calling feature, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

i. If a Facebook user does not want to interact with another user, the first user can “block” the second user from seeing his or her Facebook account.

j. Facebook has a “like” feature that allows users to give positive feedback or connect to particular pages. Facebook users can “like” Facebook posts or updates, as well as webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook users can also become “fans” of particular Facebook pages.

k. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.

l. Each Facebook account has an activity log, which is a list of the user’s posts and other Facebook activities from the inception of the account to the present. The activity log includes stories and photos that the user has been tagged in, as well as connections made through the account, such as “liking” a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user’s Facebook page.

m. A Facebook user may opt for “notifications” of many of the above listed events (e.g., receiving a message or a friend request) to be sent to an email address associated with

the user's Facebook account. From personal experience, I know that in the case of messages, this "notification" email includes the entire text of the message from the user's Facebook Inbox.

n. Facebook Notes is a blogging feature available to Facebook users, and it enables users to write and post notes or personal web logs ("blogs"), or to import their blogs from other services, such as Xanga, LiveJournal, and Blogger.

o. The Facebook Gifts feature allows users to send virtual "gifts" to their friends that appear as icons on the recipient's profile page. Gifts cost money to purchase, and a personalized message can be attached to each gift. Facebook users can also send each other "pokes," which are free and simply result in a notification to the recipient that he or she has been "poked" by the sender.

p. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

q. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user's access or use may appear on the user's profile page.

r. Facebook uses the term "Neoprint" to describe an expanded view of a given user profile. The "Neoprint" for a given user can include the following information from the user's profile: profile contact information; Mini-Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings;

rejected “Friend” requests; comments; gifts; pokes; tags; and information about the user’s access and use of Facebook applications.

s. Facebook also retains Internet Protocol (“IP”) logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user’s IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

t. Facebook keeps records that can reveal accounts accessed from the same electronic device, such as the same computer or mobile phone, including accounts that are linked by “cookies,” which are small pieces of text sent to the user’s Internet browser when visiting websites.

u. Facebook’s Data Policy states that, if users’ settings allow, Facebook retains location information, including GPS, WiFi, or Bluetooth location data for users.

v. Social networking providers like Facebook typically retain additional information about their users’ accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their account, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts

between the user and the provider's support services, as well records of any actions taken by the provider or user as a result of the communications.

Probable Cause

8. On August 17, 2020, detectives with the Chattanooga Police Department (CPD) Major Crimes Division, responded to a shooting in Chattanooga, TN. The victim subsequently died from a gunshot wound from a small caliber firearm. On August 18, 2020 detectives issued warrants for Brandon MCDANIEL (hereinafter MCDANIEL), for Criminal Homicide from that incident. According to information obtained throughout the investigation, on the evening of August 17, 2020 MCDANIEL reportedly shot and killed the victim, and reportedly used a handgun to commit the homicide.

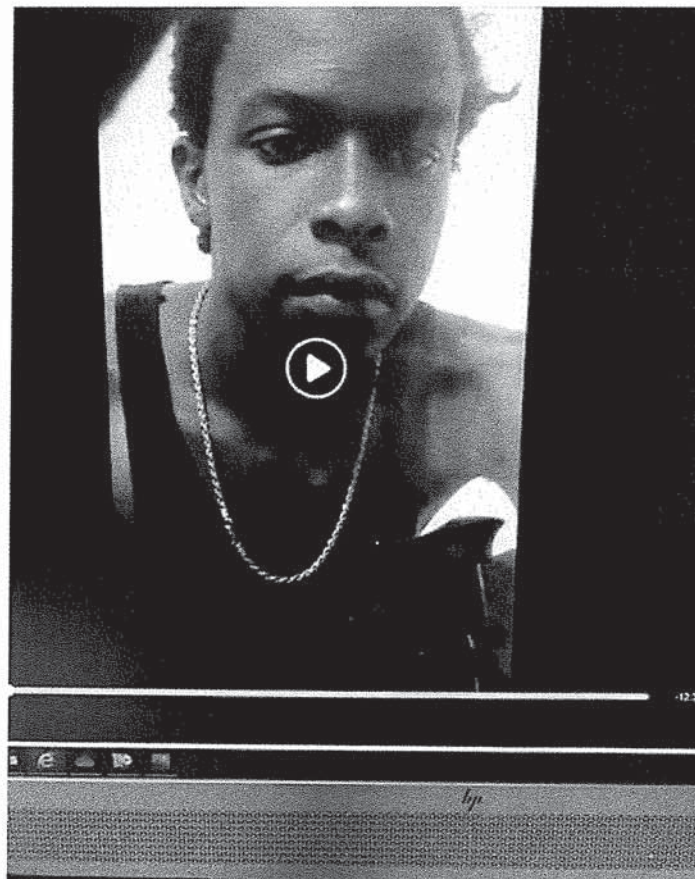
9. Subsequent searches for MCDANIEL on social media, specifically Facebook, revealed MCDANIEL's Facebook account to be <https://www.facebook.com/ghee.oa>, under the vanity name "BG Mac Da Demon." There are numerous photos of MCDANIEL visible to the public on the account, to include the "Profile Picture," which depicts MCDANIEL.

10. A further search of public posts, photographs, and videos also show MCDANIEL in possession of suspected firearms. The following screenshot was taken from a video viewable to the public that was posted on MCDANIEL's Facebook page. According to Facebook, the video was posted approximately "one month" prior. The link to the video is <https://www.facebook.com/100029308276546/videos/362857311367875/?extid=DE7JNrTmZOYNfR8C>. The following is a screenshot from the video:



11. The following is a link to a second video posted to MCDANIEL's Facebook page:

<https://www.facebook.com/100029308276546/videos/367376540915952/?extid=pL24UY9KNU>
[CtGxnJ](#). According to Facebook, the video was posted approximately "one month" prior. The following are screenshots from the video:



The following is a link to a third video posted to MCDANIEL's Facebook page:

<https://www.facebook.com/100029308276546/videos/361774741476132/?extid=r1938IgX7ith5c>

85. According to Facebook, the video was posted approximately "one month" prior. The following is a screenshot from the video:



12. In addition to the aforementioned videos from Facebook, MCDANIEL was also found in possession of a firearm and marijuana in the East Lake Courts housing project in Chattanooga, TN on May 16, 2020. MCDANIEL was arrested and charged for weapons and drug offenses. The case is currently pending in Hamilton County court.

13. Database checks also confirmed MCDANIEL has multiple felony convictions in the State of Tennessee, and is prohibited from possessing firearms. MCDANIEL is also currently on felony probation in the State of Tennessee.

14. In sum, based on your Affiant's training and experience, as well as information obtained throughout the course of this investigation, your Affiant submits MCDANIEL is known to frequently possess firearms. Furthermore, as evident during a review of his Facebook videos, and supported by information obtained by CPD Major Crimes Division, MCDANIEL has obtained an additional firearm since his arrest in May 2020, and has utilized a firearm in his possession to shoot and kill an individual in Chattanooga on August 17, 2020. Therefore, your Affiant submits there is probable cause to believe that information regarding the location of The Target Facebook Account namely, from Facebook, all information, facilities, and technical assistance needed to ascertain the physical location of the device(s) accessing the device(s) accessing the Target Facebook Account will enable law enforcement to locate MCDANIEL, and thus the suspected handgun used by MCDANIEL on August 17, 2020 in the homicide—evidence of violations of 922(g)(1).

15. Information obtained from Facebook's precision location information can be much more precise in getting investigators closer to the devices associated with the Target Facebook Account and, thus, to the individual using the Target Facebook Account. (This process will not intercept the content of any wire communication.) When those location-based services are employed, Facebook and law enforcement agents are able to more accurately determine the location of the actual Facebook devices associated with The Target Facebook Account than by using cell site information through the cellular provider (e.g., Verizon, AT&T, T-Mobile, Sprint, etc.) alone, which typically provides information only about the location of the cell tower and (ordinarily) the direction from which the signal is strongest. In addition, the use of Facebook's access to its user's location information and similar technology does not require that law

enforcement officers be located in physical proximity to the target telephone. Because of the investigative importance of obtaining information regarding the location of the device(s) accessing the Target Facebook Account at specific times determined by investigators, this application seeks authority for the use of location-based services at times determined by investigators.


Non-Disclosure and Related Relief

16. There is good cause to permit the seizure of location information relating to the device(s) accessing the Target Facebook Account, at any time of the day or night, because of the need to locate the subject of this investigation at all hours of the day or night.

17. Providing immediate notification of the execution of any warrant requested in the attached application may have an adverse result as defined at Title 18, United States Code, Section 2705(a)(2), namely destruction or tampering with evidence, intimidation of potential witness, flight from prosecution.

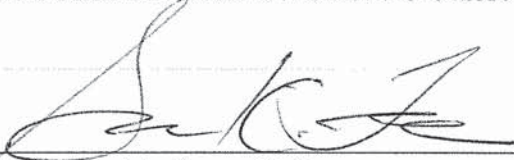
18. In view of the adverse effects listed above, and because this matter relates to an ongoing investigation that is sealed until further order of the Court, your Affiant requests that this affidavit and all attendant paperwork – including the search warrant, search warrant application, attachments, non-disclosure application, and any resulting orders – be filed under seal and remain sealed until further order of the Court.

[SIGNATURES ON FOLLOWING PAGE]



Adam Baldwin
Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives

SUBSCRIBED AND SWORN TO before me this 18th Day of August, 2020.



The Honorable Susan K. Lee,
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES OF AMERICA
FOR A SEARCH AND SEIZURE
WARRANT FOR AN ACCOUNT HOSTED
BY FACEBOOK, INC.

Case No. 1:20-mj-113

Magistrate Judge Lee

Filed Under Seal

ATTACHMENT A

This Search Warrant is being sought for the data specified in Attachment B associated with the following Facebook User ID: <https://www.facebook.com/ghee.oa> under the vanity name “BG Mac Da Demon.” hosted by Facebook Inc., 1601 Willow Road, Menlo Park, California, USA.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES OF AMERICA
FOR A SEARCH AND SEIZURE
WARRANT FOR AN ACCOUNT HOSTED
BY FACEBOOK, INC.

Case No. 1:20-mj-113

Magistrate Judge Lee

Filed Under Seal

ATTACHMENT B

I. Information to be disclosed by Facebook, Inc. (the “Provider”)

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook, Facebook is required to disclose the following information to the government for each User ID/Account listed in Attachment A:

- (a) All physical location data collected by Facebook for the user of the account, including any data collected by Facebook’s location services via the user’s mobile phone or other device, on a real-time or near-real time basis. Facebook is required to provide any such data they collect, regardless of the time of day.
- (b) Network addresses, including IP addresses and port numbers, associated with access to, and communications to or from, the SUBJECT ACCOUNT;
- (c) MAC addresses including addresses associated with access to the account
- (d) Packet headers, including packet headers associated with access to the SUBJECT ACCOUNT
- (e) Any unique identifiers associated with the device or devices used to access the

Page 1 of 2

SUBJECT ACCOUNT;

- (f) Information regarding the source and destination network addresses, as well as routes of transmission and size of Facebook messages, chats, and/or video chats, but not content; and
- (g) The number, type, and size of any attachments sent or received by the SUBJECT ACCOUNT, but not content.

II. Information to be seized by the government

- (a) All data disclosed by Facebook pursuant to this attachment. This data shall be made accessible by the Provider to the ATF 24 hours a day during the duration of production, and/or e-mailed to Special Agent Adam Baldwin at Adam.Baldwin@atf.gov

III. Time for production by provider

- (a) The provider shall begin producing the information required by this attachment as soon as reasonably practicable but in any event within 24 hours of service of the warrant.

IV. Duration of production

- (a) The provider shall produce the information required by this attachment for a period of thirty (30) days from the date of issuance of this warrant.